

ator Fellbaum was excused on account of illness.

Motion to Adjourn.

At 10:38 o'clock a. m., Senator Holbrook moved to adjourn until 10 o'clock a. m., Monday.

Senate Bill No. 7.

By Senator Van Zandt:

S. B. No. 7, A bill to be entitled "An Act to amend Section 10 and all subdivisions thereunder, of House Bill No. 26, Chapter 472, Acts Second Called Session, Forty-fourth Legislature, and declaring an emergency."

Read and referred to Committee on Finance.

Senate Bill No. 8.

By Senator Van Zandt:

S. B. No. 8, A bill to be entitled "An Act empowering and directing the State Treasurer to sell and liquidate any and all bonds or interest bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States now on deposit in the Permanent Old Age Pension Fund and to redeposit gross proceeds of sale in the Permanent Old Age Pension Fund and making an appropriation and transfer of all moneys, choses in action, funds and things of value from the Permanent Old Age Pension Fund to the Texas Old Age Assistance Fund and authorizing the State Treasurer and other officials of the State to take such action as may be necessary to effectuate such transfer, and declaring an emergency."

Read and referred to Committee on Finance.

Adjournment.

Motion to adjourn prevailed at 10:40 o'clock a. m.

APPENDIX.

Committee on Engrossed Bills.

Committee Room,

Austin, Texas, Oct. 2, 1936.

Hon. Walter F. Woodul, President of the Senate,

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 4

carefully examined and compared and find same correctly engrossed.

DAVIS, Chairman.

Committee Room,

Austin, Texas, Oct. 2, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 5 carefully examined and compared and find same correctly engrossed.

DAVIS, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, Oct. 2, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Highways and Motor Traffic, to whom was referred

S. C. R. No. 4, A concurrent resolution "As to the intention of the Legislature in the enactment of Chapter 13, Acts of 1932 of the Third Called Session of the Forty-second Legislature of Texas, and Chapter 136, Acts of 1933 of the Forty-third Legislature of Texas, Regular Session."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

SMALL, Vice Chairman.

Committee Room,

Austin, Texas, Oct. 2, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Education, to whom was referred S. B. No. 3,

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and be printed.

COTTEN, Chairman.

SIXTH DAY.

Senate Chamber,

Austin, Texas,

October 5, 1936.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Roy Sanderford.

The roll call disclosed a quorum, the following Senators being present.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hornsby.	Stone.
Isbell.	Van Zandt.
Moore.	Weinert.
Neal.	Westerfeld.
Nelson.	Woodruff.

Absent—Excused.

Martin.	Sulak.
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Prayer by the Rev. Reed, member of House of Representatives.

Further reading of the Journal was dispensed with on motion of Senator DeBerry.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Governor's Message

The Chair recognized the Door-keeper, who introduced a messenger from the Governor's office with the following message:

Executive Office,

Austin, Texas, October 5, 1936.

To the Senate of the 44th Legislature:

I ask the advise, consent and confirmation of the Senate to the following appointments, which are made upon the recommendation of Ralph J. McMahon as provided by Section 6 of House Bill 104, Chapter 445, General and Special Laws of the 44th Legislature, 2nd Called Session, creating the Sulphur River Conservation and Reclamation District:

To be Directors of said Sulphur River Conservation and Reclamation District:

Jess Alford, of Paris, Lamar County.

Dr. J. H. McKinney, of Cooper, Delta County.

Judge Tom Rountree, of Cooper, Delta County.

Caldwell Morris, of Douglasville, Cass County.

A. B. Childs, of Naples, Morris County.

Claude McDonald, of Mt. Pleasant, Titus County.

G. W. Rutherford, of Mt. Vernon, Franklin County.

A. Brice, of Sulphur Springs, Hopkins County.

John D. Middleton, of Greenville, Hunt County.

J. M. Pike, of Bogata, Red River County.

Bland Smith, of Bonham, Fannin County.

Harvey Simms, of Simms, Bowie County.

Respectfully submitted,

JAMES V. ALLRED,
Governor of Texas.

Read and referred to Committee on Governor's nominations.

Announcements.

Senator Holbrook announced the death of Senator Ernest Fellbaum.

Committee Appointed.

The Chair appointed the following committee from the Senate to attend the funeral:

Senators Blackert, Hill, Holbrook, Hornsby and Neal.

Senator Holbrook announced the death of Senator Weinert's secretary, Mr. Robert Studer.

Bills and Resolutions.

Senate Resolution No. 5

By Senator Moore:

Whereas, There is no higher duty resting upon the State of Texas than the proper care of those of its citizens who are of unsound mind; and

Whereas, The existing facilities and equipment are insufficient to properly care for these unfortunate individuals; and

Whereas, No appropriation can be made at this time for this High and Christian purpose unless and until His Excellency James V. Allred, submits this great question to this Legislature for its action thereon;

Now, therefore, be it resolved by the Senate of Texas, That they respectfully but earnestly petition His Excellency to submit this question to the Legislature now in Session in order that it may appropriate sufficient funds so as to alleviate the conditions now prevailing;

Be it further resolved that the Secretary of the Senate be directed

to deliver a copy of this Resolution to His Excellency, Honorable James V. Allred, Governor of Texas.

Senator Moore moved to suspend the rule requiring resolutions be referred to a committee.

Pending.

Point of Order.

Senator Van Zandt raised the point of order that time had expired for the discussion of this resolution.

Chair sustained point of order, and Senator Holbrook asked unanimous consent to extend time five minutes for Senator DeBerry to make further remarks.

Time was granted.

A roll call was ordered on suspension of Senate rule and was lost by the following vote:

Yeas—10.

Blackert.	Sanderford.
Burns.	Shivers.
Collie.	Small.
Moore.	Stone.
Rawlings.	Weinert.

Nays—18.

Beck.	Nelson.
Cotten.	ONeal.
Davis.	Pace.
DeBerry.	Poage.
Hill.	Redditt.
Holbrook.	Regan.
Hornsby.	Van Zandt.
Isbell.	Westerfeld.
Neal.	Woodruff.

Absent—Excused.

Martin.	Sulak.
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Senate Resolution No. 5 was referred to Committee on Finance.

S. C. R. No. 8.

By Senator Cotten:

Whereas, The Honorable James V. Allred has called into extraordinary session and being the Third Called Session for the purpose of raising permanent funds for the payment of old age assistance in Texas; and

Whereas, The House of Representatives only are vested with the power of introducing tax raising measures; and

Whereas, The Constitution limits the length of time for a special session to thirty days; and

Whereas, One week of this session has expired and the time remaining

to pass such legislation is fast drawing to a close; and

Whereas, If a joint meeting of the respective committees of both Houses be had upon the bills, considerable time and expense may be affected; now, therefore, be it

Resolved, By the Senate of Texas, the House of Representatives concurring that the respective Committees of both Houses meet in joint session in the hearing of bills now pending in the House of Representatives concerning taxes.

Senator Cotten moved to suspend the rule requiring resolutions be referred to a committee.

The motion lost by a viva voce vote.

Read and referred to Committee on State Affairs.

Senate Bill No. 6.

Senator Van Zandt moved to suspend the rule requiring printed copies of bills to lie on desks 24 hours, and take up S. B. No. 6.

Motion prevailed by the following vote:

Yeas—28.

Beck.	ONeal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hornsby.	Stone.
Isbell.	Van Zandt.
Moore.	Weinert.
Neal.	Westerfeld.
Nelson.	Woodruff.

Absent—Excused.

Martin.	Sulak.
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Senate Bill No. 6.

The Chair laid before the Senate on its second reading the following bill:

By Senator Cotten:

S. B. No. 6, A bill to be entitled "An Act making an appropriation; directing the State Treasury to transfer certain funds in the Permanent Old Age Pension Fund to the Texas Old Age Assistance Fund; authorizing the sale of securities held by the Permanent Old Age Pension Fund; and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Van Zandt, the constitutional rule requiring bills to be read on three several days was suspended by the following vote:

Yeas—28.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Poage.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Holbrook.	Small.
Hornsby.	Stone.
Isbell.	Van Zandt.
Moore.	Weinert.
Neal.	Westerfeld.
Nelson.	Woodruff.

Absent—Excused.

Martin. Sulak.

Senator Van Zandt received unanimous consent to lay the bill on table subject to call for five minutes in order to prepare amendments.

Executive Session.

On motion of Senator Oneal, at 11:20 o'clock a. m., the Senate went into executive session.

The time set for executive session, having arrived the chamber was cleared and the doors locked.

After Executive Session.

At 11:25, the conclusion of executive session, the Secretary of the Senate informed the Journal Clerk that the following action had been taken:

Committee Room,
Austin, Texas, Oct. 1, 1936.
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Governor's Nominations, to whom was referred the following appointments, have had the same under consideration and I, as Chairman of said committee, am instructed to report same back to the Senate with the recommendation that they be in all things confirmed:

To be Notaries Public in and for Harris County, Texas:

Lemar Ramel, Houston, Texas:
E. Jared Gann, Houston, Texas.
Adopted.

Senate Bill No. 6.

Senator Van Zandt called from the

table S. B. No. 6 and offered the following amendment:

By Senator Van Zandt:

Amend S. B. No. 6 by striking out the words and figures "January 1." wherever it appears and substituting therefor the following "July 1."

Read and adopted.

Senator Woodruff offered the following amendment:

By Senator Woodruff:

Amend S. B. No. 6 by adding a new section as follows:

Section 1-A. All funds herein or hereafter transferred or appropriated to said Old Age Assistance Fund shall be available immediately for the payment of costs of administration and of assistance to persons admitted by the Old Age Assistance Commission to the rolls for said benefits. All payments so made shall be upon an equal basis, without discrimination as to need or prior standard of living.

Amend caption to conform.

Points of Order.

Senator Van Zandt raised the point of order that the bill was an appropriation and that the subject matter was not germane thereto in that same attempted to amend the statute the subject matter of which was not within the Governor's call.

Chair sustained point of order.

Senator Rawlings raised point of order:

I raise the Point of Order that Senate Bill No. 6 is out of order because in violation of Section 36, Article 3, Constitution of the State of Texas. The effect of S. B. No. 6 would be to amend a General Law, (Old Age Assistance Law, H. B. No. 26) by an appropriation bill, it being conceded by the sponsors of S. B. No. 6, the pending bill is only an appropriation bill. To comply with the above provision of the Constitution the Amendatory Act must reenact Section 10 of H. B. No. 26 (Old Age Assistance Act) with the changes necessary to accomplish the desired results—in this particular case the abolishment of the "permanent fund" originally provided for in Section 10 of the Old Age Assistance Act, and to transfer these funds to the "available fund" and a Gen-

eral Statute cannot be amended by an appropriation bill.

Point of order sustained by Chair.

Senator Van Zandt appealed from the ruling of the Chair to the Floor.

Senator Regan in the Chair.

The Chair was sustained by the following vote:

Yeas—14.

Collie.	Rawlings.
Davis.	Regan.
Holbrook.	Small.
Hornsby.	Stone.
Isbell.	Weinert.
Neal.	Westerfeld.
Nelson.	Woodruff.

Nays—12.

Beck.	Oneal.
Burns.	Pace.
Cotten.	Poage.
DeBerry.	Redditt.
Hill.	Shivers.
Moore.	Van Zandt.

Present—Not Voting.

Sanderford.

Absent.

Blackert.

Absent—Excused.

Martin.

Sulak.

Senator Pace moved that he be permitted to withdraw S. C. R. No. 1 from State Affairs Committee and from further consideration by the Senate.

The motion prevailed by the following vote:

Yeas—23.

Beck.	Poage.
Burns.	Rawlings.
Collie.	Redditt.
Davis.	Regan.
DeBerry.	Sanderford.
Hill.	Shivers.
Hornsby.	Small.
Isbell.	Stone.
Neal.	Van Zandt.
Nelson.	Weinert.
Oneal.	Woodruff.
Pace.	

Nays—3.

Holbrook.	Westerfeld.
Moore.	

Present—Not Voting.

Cotten.

Absent.

Blackert.

Absent—Excused.

Martin.

Sulak.

Message From the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House, with the following message:

Hall of the House of Representatives,
Austin, Texas, Oct. 5, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolutions:

S. C. R. No. 2, Declaring it to be the intent of the Legislature to include among the text books authorized to be selected and adopted by the State Board of Education, text books on the reading of music.

H. C. R. No. 2, Granting Mrs. Annie Allison permission to bring suit against the State of Texas.

H. C. R. No. 3, Granting E. A. Schlick, et al, permission to sue the State of Texas and the State Highway Commission.

H. C. R. No. 4, Granting to John Mulkey of Ellis County, Texas permission to bring suit against the State of Texas and the State Highway Commission.

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

Resolutions Referred.

H. C. R. No. 2, referred to Committee on State Affairs.

H. C. R. No. 3, referred to Committee on State Affairs.

H. C. R. No. 4, referred to Committee on State Affairs.

Resolution Signed.

The Chair gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read, the following resolution:

S. C. R. No. 2.

Senator Excused.

Senator Stone moved to excuse Senator Sulak on account of business.

Senate Resolution No. 8.

By Senators Hill and Redditt:

Whereas, There has occurred a most blessed event in the home of the distinguished member of the Highway Commissioner, John Wood, of Texas, to-wit: the arrival of an eight and one-half pound boy; and

Whereas, There is every indication that the father will survive and that the precocious youngster gives early promise of becoming a successor to his distinguished father; therefore be it

Resolved, That congratulations of the Senate of Texas be extended to the fond parents of this fine young Texan and that the Secretary of the Senate furnish the parents and the youngster a copy of this resolution.

Read and adopted.

Senate Resolution No. 6.

By Senator Neal:

Be it resolved that the Secretary of the Senate be and he is hereby directed to send floral offering to the family of our deceased colleague, Honorable Ernest Fellbaum, same to be paid for out of the Contingent Expense Fund of the Senate.

Read and adopted.

Motion to Adjourn.

On motion of Senator Burns, at 12:25 o'clock p. m., the Senate adjourned until Tuesday, 10 o'clock a. m.

APPENDIX.**Committee on Enrolled Bills.**

Committee Room,

Austin, Texas, Oct. 5, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. C. R. No. 2 carefully examined and compared and find same correctly enrolled.

POAGE, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, Oct. 5, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee of Finance, to whom was referred

S. B. No. 6. A bill to be entitled "An Act making an appropriation; directing the State Treasury to transfer certain funds in the Permanent

Old Age Pension Fund to the Texas Old Age Assistance Fund; authorizing the sale of securities held by the Permanent Old Age Pension Fund, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate, with the recommendation that it do pass, and be not printed.

REDDITT, Chairman.

Committee Room,

Austin, Texas, Oct. 5, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

S. B. No. 7, A bill to be entitled "An Act to amend Section 10 and all subdivisions thereunder, of House Bill 26, Chapter 472, Acts Second Called Session, Forty-fourth Legislature, etc."

Have had same under consideration, and I am instructed to report it back to the Senate with recommendation that it do pass and be not printed.

REDDITT, Chairman.

Committee Room.

Austin, Texas, Oct. 5, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred:

S. B. No. 8, A bill to be entitled "An Act empowering and directing the State Treasurer to sell and liquidate any and all bonds or interest bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States now on deposit in the Permanent Old Age Pension Fund and to re-deposit gross proceeds of sale in the Permanent Old Age Pension Fund and making an appropriation and transfer of all moneys, choses in action, funds and things of value from the Permanent Old Age Pension Fund to the Texas Old Age Assistance Fund and authorizing the State Treasurer and other officials of the State to take such action as may be necessary to effectuate such transfer, etc."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

REDDITT, Chairman.

**In Memory
of
Mr. Robert Studer**

SENATE RESOLUTION NO. 7.

Whereas, Robert Studer, secretary to Senator Weinert, passed on since the Senate last adjourned, and

Whereas, In the death of Mr. Studer, Senator Weinert has lost a personal friend and a valued secretary, who was beginning his services here in the Senate as such, and who acted as court reporter for the Judicial District where Senator Weinert held the district attorneyship, for a long time.

Now, therefore, be it resolved by the Senate of Texas, That in the passing of Mr. Studer, we mourn his loss, and express to Senator Weinert and to Mr. Studer's family our deepest sympathy.

It is further resolved that a copy of this resolution be mailed to members of Mr. Studer's family, and that when the Senate adjourns for the day that it do so in his memory.

HOLBROOK.

Read and adopted by a rising vote.

In Memory
of
Hon. Ernest Fellbaum

SENATE RESOLUTION NO. 9.

Whereas, The Senate of Texas has learned with great sorrow of the passing of one of its co-workers, Senator Ernest Fellbaum of San Antonio, Texas, who represents the 26th Senatorial District of this State, and

Whereas, On Saturday, October 4th, 1936, Senator Ernest Fellbaum departed this life after a lingering illness of several months, and

Whereas, Senator Fellbaum was a native Texan, born at Comfort, Texas, March 23rd, 1877. He moved to San Antonio and was married to Elizabeth Spindle Fellbaum in the spring of 1902, and

Whereas, It has come to the attention of the Senate that Senator Fellbaum was for more than thirty-seven years a practicing attorney and one of the outstanding attorneys of San Antonio, and in that field his achievement was notable, and

Whereas, Senator Fellbaum is survived by his wife who has been a devoted one and has constantly been in attendance during his illness, and two sons, Ernest S. Jr., and Lloyd Fellbaum.

Whereas, Texas business men have lost a friend who understood their problems; Texas school children have lost a sympathetic benefactor; and the masses of Texas have lost a friend whose capable service cannot easily be surpassed; now, therefore, be it

Resolved, That the Senate of the State of Texas mourns the loss of a most valuable member; that this resolution be printed in the Senate Journal as a testimonial to his memory; that a copy of same be mailed to each member of his family; and that when the Senate adjourns for the day, it do so in his honor.

HOLBROOK,	HILL,	PACE,	STONE,
BECK,	HORNSBY,	POAGE,	SULAK,
BLACKERT,	ISBELL,	RAWLINGS,	VAN ZANDT,
BURNS,	MARTIN,	REDDITT,	WEINERT,
COLLIE,	MOORE,	REGAN,	WESTERFELD,
COTTEN,	NEAL,	SANDERFORD,	WOODRUFF,
DAVIS,	NELSON,	SHIVERS,	WOODUL, Lt. Gov.
DeBERRY,	ONEAL,	SMALL,	

Read and adopted by rising vote: